

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

COMPLETE TITLE OF CASE:

BRIAN HAUGE AND SUSAN HANLEY,

Respondents

v.

TRUSTEES OF HIGHLANDS OF CHESTERFIELD.

Appellant

DOCKET NUMBER WD76589

DATE: April 15, 2014

Appeal From:

Circuit Court of Cole County, MO
The Honorable Patricia S. Joyce, Judge

Appellate Judges:

Division Four
James Edward Welsh, C.J., Joseph M. Ellis, J., and Mary R. Russell, Sp. J.

Attorneys:

Haig Apoian, Chesterfield, MO

Counsel for Appellant

Attorneys:

Brian McGovern, Chesterfield, MO
Stephen Jeffery, Ballwin, MO

Counsel for Respondents
Co-Counsel for Respondents

**MISSOURI APPELLATE COURT OPINION SUMMARY
MISSOURI COURT OF APPEALS, WESTERN DISTRICT**

**BRIAN HAUGE AND SUSAN HANLEY, Respondents, v.
TRUSTEES OF HIGHLANDS OF CHESTERFIELD, Appellant**

WD76589

Cole County

Before Division Four Judges: Welsh, C.J., Ellis, J., and Russell, Sp. J.

The Trustees of Highlands of Chesterfield appeal from the circuit court's amended order and final judgment concluding that, because Brian Hauge and Susan Hanley dismissed their petition for declaratory relief, it did not have jurisdiction to rule upon the Trustees' pending motion for sanctions which requested sanctions, attorney fees, and contract damages. The Trustees contend that, pursuant to Rule 67.05, the circuit court retained jurisdiction to rule on ancillary matters, which would include the Trustees' motion for sanctions

AFFIRMED

Division Four holds:

Because the Trustees' motion for sanctions constituted an unpled counterclaim and would require the court to assess the legal merits of the declaratory judgment action, the motion was not an ancillary matter over which the circuit court retained jurisdiction. The circuit court, therefore, did not err in concluding that, once Hauge and Hanley voluntarily dismissed their petition for declaratory relief, it did not have jurisdiction to issue any relief requested by the Trustees.

Opinion by James Edward Welsh, Chief Judge

April 15, 2014

* * * * *

THIS SUMMARY IS UNOFFICIAL AND SHOULD NOT BE QUOTED OR CITED.
--